



I own property adjacent to the applicant and have owned this property since 1996.

Application 13-0008 is for environmental review and approval of a “proposed elevation and material change to building including a new front façade and roof top patio.” A roof top patio is a conditional use in this zoning district (MUC) because it is an “outdoor facility” pursuant to Bexley Code 1252.03 (j) which states that conditional uses include a “drive-in or *outdoor facility* in association with a permitted use...” Further, Bexley Code 1268.25 states that an outdoor facility is an “outdoor display of sale items or *outdoor provision of services* other than drive through.”

A conditional use may only be approved if it meets the standards in the Bexley code for a conditional use; this application did not address any of these factors. Bexley Code 1264.15(b) requires the consideration of nine factors, including whether the use will “have a negative impact on neighboring land uses because of the differences between the proposed use and existing uses.” While this use does not meet any of the factors for approval of a conditional use, the predominant factor that it does not meet is that there is a negative impact on this neighborhood.

This is an eating and (alcohol) drinking establishment. As such, it is a “high intensive commercial use.” Bexley Code 1256.02 defines “high intensive commercial uses” as including eating and drinking places, barber and beauty shops, quick service food stores and cafeterias.

A major objection to this conditional use is the fact that it has insufficient on-site and off-site parking available as required by the Bexley Code. Bexley Code 1256.02 requires one off street parking spaces per 100 sq ft of floor area for “high intensive commercial uses”; there are over 7100 sf of floor area above-grade in this building according to the property card on file with the county auditor. This does not include the roof top, which could be an additional 3,000 sq. ft. of floor area. Even assuming the lower number of 7100 sq. ft, this would require over 70 on-site parking spaces. When it applied for a parking variance in 2012, the applicant represented that it was required to have only one space *per 250 ft* of floor area, clearly untrue under the Bexley Code.

There are at most six parking spaces on the applicant’s lot, only three of which are in the front of the building. There are no cross easements to allow parking on my property nor can Montrose and Cassingham accommodate anywhere close to 70-100 parking spaces required for this facility. These are narrow neighborhood streets, one adjoining an elementary school, with lots of children and other child-friendly activity on them. Patrons of this drinking establishment would be prowling the streets looking for available parking, day and night.

Valet parking is not feasible either. Even though this commission was told that valet parking is permissible on city streets, it is not (Bexley Code 452.22 says that valet parking services for commercial properties on public streets is not permitted). Furthermore, the the valet parking spaces the applicant claimed it had was based not only on a false number (28 rather than 70-100 spaces) but also included the Montrose elementary school parking lot (which closes at 7:00 p.m. and is the closest lot). It also included the Huntington National Bank lot at 2631 E. Main (which has about six spaces) and two Chase Bank lots. One of which, at 2660 E. Main, is not even owned by Chase but shares parking with a 24 hour fitness facility. The second Chase location is over two miles away on Broad Street. The purported valet parking solution is no solution at all and indeed guarantees that the neighborhood streets will be the primary source for parking for patrons of this facility.

Even if this use could somehow meet the standards for a conditional use, the lot on which this building is located is a nonconforming lot under the Bexley Code: this lot does not have legal access to a public street (contrary to Bexley Code 1260.06 and other provisions). This lot can access Main Street only by trespassing on private property, including my own to reach the east curb cut. This is a result of the city's recent streetscape construction which reduced the width of the drive aisle, which had been in the right of way for decades, to less than six feet. This lot must be brought up to code before there can be any consideration of this application.

In addition, allowing eating and drinking on the top of a three story building poses a safety and environmental hazard. This building is already the tallest in this area at three stories. Anything dropped off of this roof will not likely land on the applicant's property, but on mine or one of the other neighbors, or even Main St. Moreover, the noise from patrons, piped out music, or bands from this rooftop will disturb residents in all directions.

There are additional reasons why this application must be denied and I do not waive any of these objections. However, common sense alone should prevail in denying this application.

Marcus Ferguson
11-25-13